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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,989	09/25/2006	Andreas Kohl	AP 10663	8281
53203 7590 10/27/2009 CONTINENTAL TEVES, INC. ONE CONTINENTAL DRIVE AUBURN HILLS, MI 48326-1581				
EXAMINER				
BROADHEAD, BRIAN J				
ART UNIT		PAPER NUMBER		
3664				
MAIL DATE		DELIVERY MODE		
10/27/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,989

Applicant(s)

KOHLE ET AL.

Examiner

BRIAN J. BROADHEAD

Art Unit

3664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 9-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 26 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 9-26-05
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “depending on the reported general mode of operation, allowing actuator actuation only by an authorized system service” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. This limitation seems to corresponds to the “first step” in paragraph 9 and paragraph 26.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:
3. In paragraph 20, the wrong reference number is used for the mode of operation control unit.

Appropriate correction is required.

Claim Objections

4. Claim 12 is objected to because of the following informalities: The "any one of more of claims" needs to be removed from the first line.
5. Appropriate correction is required.
6. Claim 14 is objected to because of the following informalities:
7. The limitations starting with "a brake system..." is written in confusing language and needs to be re-written in more clear manner.
8. Appropriate correction is required.
9. Claim 16 is objected to because of the following informalities:
10. The different modes of operation should be separately indented to make the claim easier to read and the punctuation cleaned up to make it clearer when one mode ends and the next begins.
11. Appropriate correction is required.

Claim Rejections - 35 USC § 112

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

13. Claims 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims recite using two stage arbitration and more specifically vertical and horizontal arbitration. There is no clear explanation for what both these terms mean so it is not known what the bounds of the claims are. Paragraph 9, of the specification does describe vertical arbitration as giving different priority to different forms of actuator drive signals. The different types including pressure, current, or on/off. The paragraph goes on to say that horizontal arbitration determines priority of a signal by "means of which the selected system service wants to drive the actuator". This sounds a lot like the vertical arbitration and it isn't clear what scope to give the term "horizontal arbitration". A search was made on the term and it is not a term of art with a known definition. Paragraphs 26 and 27 also discuss vertical and horizontal arbitration but not help in determining their meanings. In paragraph 26, vertical arbitration is described as "evaluated according to a predetermined rank or priority of the individual types of arbitration." It is not clear what that exactly means. In paragraph 27, it simply states horizontal arbitration is carried out.

14. Claims 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the

invention. The claims recite using two stage arbitration and more specifically vertical and horizontal arbitration. There is no clear explanation for what both these terms mean so it is not known what the bounds of the claims are. Paragraph 9, of the specification does describe vertical arbitration as giving different priority to different forms of actuator drive signals. The different types including pressure, current, or on/off. The paragraph goes on to say that horizontal arbitration determines priority of a signal by "means of which the selected system service wants to drive the actuator". This sounds a lot like the vertical arbitration and it isn't clear what scope to give the term "horizontal arbitration". A search was made on the term and it is not a term of art with a known definition. Paragraphs 26 and 27 also discuss vertical and horizontal arbitration but not help in determining their meanings. In paragraph 26, vertical arbitration is described as "evaluated according to a predetermined rank or priority of the individual types of arbitration." It is not clear what that exactly means. In paragraph 27, it simply states horizontal arbitration is carried out.

15. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for changing a mode of operation according to predefined rules in consideration of the instantaneous mode of operation *in response to an access requirement by a system service*, does not reasonably provide enablement for changing a mode of operation according to predefined rules in consideration of the instantaneous mode of operation. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the

invention commensurate in scope with these claims. The claim isn't claiming what the invention is by failing to recite the access requirement.

16. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

17. Claims 9-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

18. Claim 9 recites the limitation "the actuator access requirements" in line 2. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 9 recites the limitation "the reported general mode of operation" in line 10. There is insufficient antecedent basis for this limitation in the claim.

20. Claim 9 recites the limitation "the current mode of operation" in line 9. There is insufficient antecedent basis for this limitation in the claim.

21. Claim 10 recites the limitation "the access requirements" in line 1. There is insufficient antecedent basis for this limitation in the claim.

22. Claim 11 recites the limitation "the access requirement originating from a system service" in line 1. There is insufficient antecedent basis for this limitation in the claim.

23. Claim 12 recites the limitation "the unauthorized access requirements" in line 2. There is insufficient antecedent basis for this limitation in the claim.

24. Claim 12 recites the limitation "the types of arbitration" in line 5. There is insufficient antecedent basis for this limitation in the claim.

25. Claim 12 recites the limitation "the priority of the signal for driving an actuator" in line 9. There is insufficient antecedent basis for this limitation in the claim.
26. Claim 13 recites the limitation "the rights of the system services" in line 1. There is insufficient antecedent basis for this limitation in the claim.
27. Claim 14 recites the limitation "the instantaneous general mode of operation" in line 9. There is insufficient antecedent basis for this limitation in the claim.
28. Claim 14 recites the limitation "the current mode of operation" in line 10. There is insufficient antecedent basis for this limitation in the claim.
29. Claim 14 recites the limitation "the reported general mode of operation" in line 11. There is insufficient antecedent basis for this limitation in the claim.
30. Claim 14 recites the limitation "the authorized system service" in line 12. There is insufficient antecedent basis for this limitation in the claim.
31. Claim 14 recites the limitation "the actuator access requirements" in lines 13. There is insufficient antecedent basis for this limitation in the claim.
32. Regarding claim 14, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
33. Regarding claim 15, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

34. Regarding claims 14, the limitation "a brake system..." is unclear as to what is being claimed. It is not clear what is being "determined and checked" and what does "in connection with" encompass?

Conclusion

35. If the clarity issues are resolved it appears that there is allowable subject matter disclosed in the current application. It is suggested that the "access management" be mentioned in claim 9 to help make the claim more clear. For instance, the current mode of operation is disclosed as being reported to the access management and in the second to last line of claim 9, the word "processes" is used and it would make it clearer is the access management was recited in relation to this so it is apparent what processes the information. This would also eliminate any issues with 35 USC 101 and the machine or transformation test. The actuating an actuator might be viewable as insignificant extra solution activity and adding the access management would remove the possibility the claims falling under a judicial exception of 35 USC 101.

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN J. BROADHEAD whose telephone number is (571)272-6957. The examiner can normally be reached on Monday through Thursday or Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian J. Broadhead/
Examiner, Art Unit 3664
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